

Pro Se 14 (Rev. 12/16) Complaint for Violation of Civil Rights (Prisoner)

## UNITED STATES DISTRICT COURT

for the

Northern District of New York

Division \_\_\_\_\_

Case No.

9.21-cv-625(DMH/CFH)

(to be filled in by the Clerk's Office)

Carl E. campbell 88C0296, Pro-se

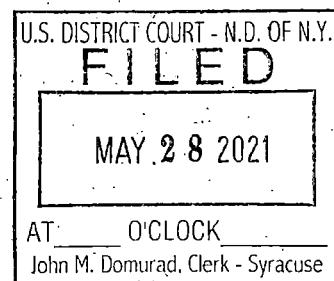
## Plaintiff(s)

(Write the full name of each plaintiff who is filing this complaint.  
 If the names of all the plaintiffs cannot fit in the space above,  
 please write "see attached" in the space and attach an additional  
 page with the full list of names.)

The State of New York  
Dr. Melissa Belgard, MD

## Defendant(s)

(Write the full name of each defendant who is being sued. If the  
 names of all the defendants cannot fit in the space above, please  
 write "see attached" in the space and attach an additional page  
 with the full list of names. Do not include addresses here.)



### COMPLAINT FOR VIOLATION OF CIVIL RIGHTS

(Prisoner Complaint)

## NOTICE

Federal Rules of Civil Procedure 5.2 addresses the privacy and security concerns resulting from public access to electronic court files. Under this rule, papers filed with the court should *not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include *only*: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number.

Except as noted in this form, plaintiff need not send exhibits, affidavits, grievance or witness statements, or any other materials to the Clerk's Office with this complaint.

In order for your complaint to be filed, it must be accompanied by the filing fee or an application to proceed in forma pauperis.

**I. The Parties to This Complaint****A. The Plaintiff(s)**

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name	Carl Campbell 88C0296, Pro-se		
All other names by which you have been known:	"Butch"		
ID Number	88C0296		
Current Institution	Mohawk Corr. Facility		
Address	6514 Rt. 26, P.O. Box 8450		
	Rome	N.Y.	13442
		City	State
			Zip Code

**B. The Defendant(s)**

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. Make sure that the defendant(s) listed below are identical to those contained in the above caption. For an individual defendant, include the person's job or title (*if known*) and check whether you are bringing this complaint against them in their individual capacity or official capacity, or both. Attach additional pages if needed.

## Defendant No. 1

Name	The State of New York		
Job or Title ( <i>if known</i> )			
Shield Number			
Employer			
Address	The Capitol Building		
	Albany	N.Y.	12226-2050
	City	State	Zip Code
<input type="checkbox"/> Individual capacity	<input checked="" type="checkbox"/> Official capacity		

## Defendant No. 2

Name	Dr. Mellissa Belgard, MD		
Job or Title ( <i>if known</i> )	Previously employed at Five Points correctional facility		
Shield Number			
Employer			
Address	??		
	Romulus	NY	14541
	City	State	Zip Code
<input type="checkbox"/> Individual capacity	<input checked="" type="checkbox"/> Official capacity		

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## Defendant No. 3

Name \_\_\_\_\_

Job or Title (*if known*) \_\_\_\_\_

Shield Number \_\_\_\_\_

Employer \_\_\_\_\_

Address \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_

 Individual capacity  Official capacity

## Defendant No. 4

Name \_\_\_\_\_

Job or Title (*if known*) \_\_\_\_\_

Shield Number \_\_\_\_\_

Employer \_\_\_\_\_

Address \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_

 Individual capacity  Official capacity

## II. Basis for Jurisdiction

Under 42 U.S.C. § 1983, you may sue state or local officials for the "deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws]." Under *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971), you may sue federal officials for the violation of certain constitutional rights.

A. Are you bringing suit against (*check all that apply*): Federal officials (a *Bivens* claim) State or local officials (a § 1983 claim)

## B. Section 1983 allows claims alleging the "deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws]." 42 U.S.C. § 1983. If you are suing under section 1983, what federal constitutional or statutory right(s) do you claim is/are being violated by state or local officials?

Deliberate indifference8th Medical Malpractice / NegligenceC. Plaintiffs suing under *Bivens* may only recover for the violation of certain constitutional rights. If you are suing under *Bivens*, what constitutional right(s) do you claim is/are being violated by federal officials?

- D. Section 1983 allows defendants to be found liable only when they have acted "under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia." 42 U.S.C. § 1983. If you are suing under section 1983, explain how each defendant acted under color of state or local law. If you are suing under *Bivens*, explain how each defendant acted under color of federal law. Attach additional pages if needed.

Defendant Employed At 5 Points As Designated to Defendants

### III. Prisoner Status

Indicate whether you are a prisoner or other confined person as follows (check all that apply):

- Pretrial detainee
- Civilly committed detainee
- Immigration detainee
- Convicted and sentenced state prisoner
- Convicted and sentenced federal prisoner
- Other (explain) \_\_\_\_\_

### IV. Statement of Claim

State as briefly as possible the facts of your case. Describe how each defendant was personally involved in the alleged wrongful action, along with the dates and locations of all relevant events. You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases or statutes. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

A. If the events giving rise to your claim arose outside an institution, describe where and when they arose.

B. If the events giving rise to your claim arose in an institution, describe where and when they arose.

Dr. Belgard was employed by the State of New Your at 5 points correctional facility, was presented with medical folder of inmate physically examined inmate, seen inmate in wheelchair, had no no current diagnosis of injury, and when asked to have the proper test done, she denied those tests (MRI-CT) to be done.

C. What date and approximate time did the events giving rise to your claim(s) occur?

admittance to 5 points medical Dept. denied the needed tests to be done and filed said grievance on 8-02-2018 FPT-34961-18. for deliberate indifference to a serious medical need.

D. What are the facts underlying your claim(s)? (For example: What happened to you? Who did what?)

*Was anyone else involved? Who else saw what happened?*  
Injury was reported at Auburn Corr. facility, was shipped to 5 points for handicap cell, something popped in my back and had extreme pain. was examined then by Dr. Geer, and I started losing the ability to walk, and they gave me crutches, then a wheelchair after falling down

#### V. Injuries

If you sustained injuries related to the events alleged above, describe your injuries and state what medical treatment, if any, you required and did or did not receive.

The injuries I sustained was the ability to walk, it was 6 to 8 weeks after injury and being transferred from Auburn to 5 points, and then after filing a grievance for the denial of the proper tests, was I again transferred to Walsh R.M.U. and when attending a trip to Syracuse up-state hospital, did a Dr. order tests to be done on my back did they find a disk popped out of my spine compressing my spinal cord. An immediate surgery was performed the next day, and I remain in the wheelchair. Dr. Sun asked me why did it take so long to have the proper tests done, and I told him I was denied by Dr. Belgard.

#### VI. Relief

State briefly what you want the court to do for you. Make no legal arguments. Do not cite any cases or statutes. If requesting money damages, include the amounts of any actual damages and/or punitive damages claimed for the acts alleged. Explain the basis for these claims.

I am asking for compensatory and punitive damages in the amount of \$10,000,000.00 or what the court deem acceptable, this is for future operations, for pain and suffering which is continuous today, being in this wheelchair had caused other injuries such as swollen legs, where the water weeps from the legs, causes pustules and sores to the feet and legs as well as pressure sores to the buttocks and back thighs.

**VII. Exhaustion of Administrative Remedies Administrative Procedures**

The Prison Litigation Reform Act ("PLRA"), 42 U.S.C. § 1997e(a), requires that "[n]o action shall be brought with respect to prison conditions under section 1983 of this title, or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted."

Administrative remedies are also known as grievance procedures. Your case may be dismissed if you have not exhausted your administrative remedies.

- A. Did your claim(s) arise while you were confined in a jail, prison, or other correctional facility?

Yes

No

If yes, name the jail, prison, or other correctional facility where you were confined at the time of the events giving rise to your claim(s).

Five Points Correctional Facility

- B. Does the jail, prison, or other correctional facility where your claim(s) arose have a grievance procedure?

Yes

No

Do not know

- C. Does the grievance procedure at the jail, prison, or other correctional facility where your claim(s) arose cover some or all of your claims?

Yes

No

Do not know

If yes, which claim(s)?

Any Grievances File here for issues here

- D. Did you file a grievance in the jail, prison, or other correctional facility where your claim(s) arose concerning the facts relating to this complaint?

Yes

No

If no, did you file a grievance about the events described in this complaint at any other jail, prison, or other correctional facility?

Yes

No

- E. If you did file a grievance:

1. Where did you file the grievance?

Five points on 8-2-18

2. What did you claim in your grievance?

Five points on 8-2-18

3. What was the result, if any?

Denied at 5 points

4. What steps, if any, did you take to appeal that decision? Is the grievance process completed? If not, explain why not. (Describe all efforts to appeal to the highest level of the grievance process.)

Appealed to C.O.R.C. FPT-3496-18

CORC (11/28/18)

UNANIMOUSLY ACCEPTED IN PART

F. If you did not file a grievance:

1. If there are any reasons why you did not file a grievance, state them here:

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2. If you did not file a grievance but you did inform officials of your claim, state who you informed, when and how, and their response, if any:

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G. Please set forth any additional information that is relevant to the exhaustion of your administrative remedies.

*(Note: You may attach as exhibits to this complaint any documents related to the exhaustion of your administrative remedies.)*

*Exh #2*

### VIII. Previous Lawsuits

The "three strikes rule" bars a prisoner from bringing a civil action or an appeal in federal court without paying the filing fee if that prisoner has "on three or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury." 28 U.S.C. § 1915(g).

To the best of your knowledge, have you had a case dismissed based on this "three strikes rule"?

Yes

No

If yes, state which court dismissed your case, when this occurred, and attach a copy of the order if possible.

<b>CAMPBELL, C.</b>		<b>88C0296</b>	<b>10-B2-49B</b>
 <b>NEW YORK STATE</b> <b>Corrections and Community Supervision</b>  ANDREW M. CUOMO Governor      ANTHONY J. ANNUNCI Acting Commissioner	<b>Grievance Number</b>	<b>Desig./Code</b>	<b>Date Filed</b>
	FPT-34961-18	I/22	08/02/18
		<b>Associated Cases</b>	<b>Hearing Date</b>
		FPT-34964-18	11/27/19
		<b>Facility</b>	
		Five Points Correctional Facility	
<b>INMATE GRIEVANCE PROGRAM</b>	<b>Title of Grievance</b>		
<b>CENTRAL OFFICE REVIEW COMMITTEE</b>	Medication Denied/CT Scan		

**GRIEVANT'S REQUEST UNANIMOUSLY ACCEPTED IN PART**

Upon a full hearing of the facts and circumstances presented in the instant case, and upon recommendation of the Division of Health Services, the action requested herein is accepted in part.

CORC notes that the grievant's complaint has been reviewed by the Division of Health Services' staff who advise that a complete investigation was conducted and that the grievant is receiving appropriate treatment. CORC also notes that his medical issues were addressed in its prior decision AUB-74594-18, dated 11/6/19. He was transferred on 8/16/18; had spinal cord decompression with laminectomy and fusion on 8/20/18 and subsequently had physical therapy. It is also noted that he received insulin as ordered by his provider.

CORC asserts that, consistent with HSPM #1.43, the Facility Health Services Director (FHSD) is responsible for all aspects of inmate care, including referrals for outpatient care. Outside specialists may only make recommendations for treatment; however, the implementation of those recommendations is at the discretion of the provider and FHSD based on their professional judgment.

With respect to the grievant's appeals, CORC finds insufficient evidence to substantiate improper medical care or malfeasance by staff. He is advised that the accuracy of medical records can be challenged in accordance with HSPM, Item #4.02. CORC recommends that he address any further medical concerns directly to medical staff via established sick call procedures.

JNA/

- A. Have you filed other lawsuits in state or federal court dealing with the same facts involved in this action?

Yes

No

- B. If your answer to A is yes, describe each lawsuit by answering questions 1 through 7 below. (If there is more than one lawsuit, describe the additional lawsuits on another page, using the same format.)

1. Parties to the previous lawsuit

Plaintiff(s) Carl Campbell  
Defendant(s) STATE OF NEW YORK

2. Court (if federal court, name the district; if state court, name the county and State)

STATE Court of Claims SC/SCRA

3. Docket or index number

Claim No.: 135359 Motion No.: M-9609D

4. Name of Judge assigned to your case

Richard E. Sise

5. Approximate date of filing lawsuit

July 12, 2018

6. Is the case still pending?

Yes

No

If no, give the approximate date of disposition.

7. What was the result of the case? (For example: Was the case dismissed? Was judgment entered in your favor? Was the case appealed?)

Dismissed Due to outcome, Appeal that Decision (Pending Appeal)

- C. Have you filed other lawsuits in state or federal court otherwise relating to the conditions of your imprisonment?

NO

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Yes

No

D. If your answer to C is yes, describe each lawsuit by answering questions 1 through 7 below. (If there is more than one lawsuit, describe the additional lawsuits on another page, using the same format.)

1. Parties to the previous lawsuit

Plaintiff(s) \_\_\_\_\_

Defendant(s) \_\_\_\_\_

2. Court (if federal court, name the district; if state court, name the county and State)

3. Docket or index number

4. Name of Judge assigned to your case

5. Approximate date of filing lawsuit

6. Is the case still pending?

Yes

No

If no, give the approximate date of disposition \_\_\_\_\_

7. What was the result of the case? (For example: Was the case dismissed? Was judgment entered in your favor? Was the case appealed?)